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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/767,131	01/29/2004	Walter Jones	04116-P0001B	4367
24126	7590	11/09/2005	EXAMINER	
ST. ONGE STEWARD JOHNSTON & REENS, LLC			CHEN, JOSE V	
986 BEDFORD STREET			ART UNIT	
STAMFORD, CT 06905-5619			PAPER NUMBER	
			3637	

DATE MAILED: 11/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/767,131

Applicant(s)

JONES, WALTER

Examiner

José V. Chen

Art Unit

3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 01/25/05
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

Applicant is reminded of the proper language and format for an abstract of the disclosure.

The abstract should be in narrative form and generally limited to a single paragraph on a separate sheet within the range of 50 to 150 words. It is important that the abstract not exceed 150 words in length since the space provided for the abstract on the computer tape used by the printer is limited. The form and legal phraseology often used in patent claims, such as "means" and "said," should be avoided. The abstract should describe the disclosure sufficiently to assist readers in deciding whether there is a need for consulting the full patent text for details.

The language should be clear and concise and should not repeat information given in the title. It should avoid using phrases which can be implied, such as, "The disclosure concerns," "The disclosure defined by this invention," "The disclosure describes," etc.

Note the use of the expression "invention".

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 9, 10, 13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. It is unclear if applicant intended to claim a combination including a table since a table cover is claimed with specific interconnection with a table, such as dimensions such table not being positively claimed making the metes and bounds of the claims unclear and confusing to a potential infringer. Clarification and correction are required.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 20, 21, 22, 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bendelari. The patent to Bendelari teaches structure substantially as claimed including a table cover comprising a resilient material, side drops extending from the sides of the cover, drop fold areas the only difference being that the fold areas are not specifically "folded for binding" and that the shape of the fold areas are not specifically triangular. However, the use of well known folding techniques and shapes, such as those used in gift wrapping to provide a contoured shape covering would have been obvious and well within the level of ordinary skill in the art since such. To use attaching structures that are again well known and commercially available, such as , adhesives, stitching, heat sensitive adhesives , would have been obvious and well within the level of ordinary skill in the art since such is used

for the same well known intended purpose. The dimensions would have been obvious in view of the structures to be covered. The use of identifying or decorative indicia including embossing are well known arts and crafts structures. To use such in the same intended purpose would have been obvious and well within the level of ordinary skill in the art. The method would have been obvious in view of the structures.

Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bendelari as applied to the claims above, and further in view of Berman. The patent to Bendelari teaches structure substantially as claimed as discussed above including a cover, the only difference being the cover is not specifically vinyl. However, the patent to Berman teaches the use of providing plastics in the formation of covers to be old to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Bendelari to include an alternative material, such as plastics as taught by Berman since such structures are conventional alternative structures used in the same intended purpose thereby providing structure as claimed.

Claims 15-19, 24-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bendelari as applied to the claims above, and further in view of Hairston et al. The patent to Bendelari teaches structure substantially as claimed as discussed above including a table cover, the only difference being that a skirt is not attached to the cover. However, the patent to Hairston et al teaches the use of providing a skirt on a cover to be old. It would have been obvious and well within the level of ordinary skill in the art at the time of the invention was made to modify the structure of Bendelari to include a

skirt, as taught by Hairston et al since such structure is used in the same intended purpose thereby providing structure as claimed. It is repeated the use of attaching structures that are again well known and commercially available, such as, adhesives, stitching, heat sensitive adhesives, would have been obvious and well within the level of ordinary skill in the art.

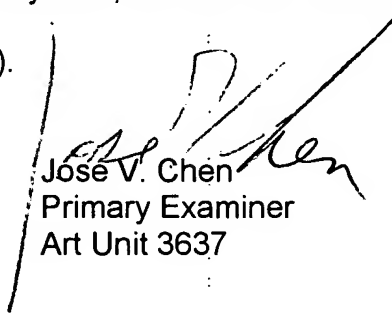
### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Stotter, Kerrigan, Stepanek, Olger, Danielson, Markey, Blackmore, Waters, Glover, O'Brien, Eisman, Lictman, Strombach teach structure similar to applicant's.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to José V. Chen whose telephone number is (571)272-6865. The examiner can normally be reached on m-f,m-th 5:30am-3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571)272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jose V. Chen  
Primary Examiner  
Art Unit 3637

Chen/jvc  
11-07-05